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SENATE BILL NO. 55
INTRODUCED BY S. HINEBAUCH
BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT ENTERING THE INTERSTATE MINING COMPACT; AGREEING TO THE REQUIREMENTS OF THE COMPACT; AUTHORIZING THE GOVERNOR TO APPOINT A DESIGNEE TO THE COMMISSION; ALLOWING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO FUND MEMBERSHIP IN THE COMMISSION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Interstate Mining Compact. This state enacts into law and enters into the Interstate Mining Compact with all states that enact the compact in the form substantially contained in [section 2].

NEW SECTION. Section 2. Text of Interstate Mining Compact. The Interstate Mining Compact referred to in [sections 1 through 4] reads as follows:

Article I. Findings and Purposes

(1) The party states find that:

(a) Mining and the contributions of mining to the economy and well-being of every state are of basic significance.

(b) The effects of mining on the availability of land, water, and other resources for other uses present special problems which properly can be approached only with due consideration for the rights and interests of those engaged in mining, those using or proposing to use these resources for other purposes, and the public.

(c) Measures for the reduction of the adverse effects of mining on land, water, and other resources may be costly and the devising of means to deal with them are of both public and private concern.

(d) Variables including soil structure and composition, physiography, climatic conditions, and the

1 needs of the public make impracticable the application to all mining areas of a single standard for the
 2 conservation, adaptation, or restoration of mined land, or the development of mineral and other natural
 3 resources; but justifiable requirements of law and practice relating to the effects of mining on lands, water, and
 4 other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all
 5 mining operations similarly situated.

6 (e) The states are in a position and have the responsibility to assure that mining is conducted in
 7 accordance with sound conservation principles and with due regard for local conditions.

8 (2) The purposes of this compact are to:

9 (a) Advance the protection and restoration of land, water, and other resources affected by mining.

10 (b) Assist in the reduction or elimination or counteracting of pollution or deterioration of land, water,
 11 and air attributable to mining.

12 (c) Encourage, with due recognition of relevant regional, physical, and other differences, programs
 13 in each of the party states which will achieve comparable results in protecting, conserving, and improving the
 14 usefulness of natural resources, to the end that the most desirable conduct of mining and related operations
 15 may be universally facilitated.

16 (d) Assist the party states in their efforts to facilitate the use of land and other resources affected
 17 by mining, so that the use may be consistent with sound land use, public health, and public safety, and to this
 18 end to study and recommend, wherever desirable, techniques for the improvement, restoration, or protection of
 19 the land and other resources.

20 (e) Assist in achieving and maintaining an efficient and productive mining industry and in
 21 increasing economic and other benefits attributable to mining.

22 Article II. Definitions

23 As used in this compact, the term:

24 (1) "Mining" means the breaking of the surface soil in order to facilitate or accomplish the
 25 extraction or removal of minerals, ores, or other solid matter, any activity or process constituting all or part of a
 26 process for the extraction or removal of minerals, ores, and other solid matter from its original location, and the
 27 preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them
 28 suitable for commercial, industrial, or construction use; but does not include those aspects of deep mining not

1 having significant effect on the surface, and does not include excavation of grading when conducted solely in
2 aid of on-site farming or construction.

3 (2) "State" means a state of the United States, the District of Columbia, the Commonwealth of
4 Puerto Rico, or a Territory or Possession of the United States.

5 Article III. State Programs

6 Each party state agrees that within a reasonable time it will formulate and establish an effective
7 program for the conservation and use of mined land, by the establishment of standards, enactment of laws, or
8 the continuing of the same in force, to accomplish:

9 (1) The protection of the public and the protection of adjoining and other landowners from damage
10 to their lands and the structures and other property on that land resulting from the conduct of mining operations
11 or the abandonment or neglect of land and property formerly used in the conduct of those operations.

12 (2) The conduct of mining and the handling of refuse and other mining wastes in ways that will
13 reduce adverse effects on the economic, residential, recreational, or aesthetic value and utility of land and
14 water.

15 (3) The institution and maintenance of suitable programs of adaptation, restoration, and
16 rehabilitation of mined lands.

17 (4) The prevention, abatement and control of water, air, and soil pollution resulting from mining —
18 present, past, and future.

19 Article IV. Powers

20 In addition to any other powers conferred upon the Interstate Mining Commission, established by article
21 V of this compact, the Commission shall have power to:

22 (1) Study mining operations, processes, and techniques for the purpose of gaining knowledge
23 concerning the effects of the operations, processes, and techniques on land, soil, water, air, plant and animal
24 life, recreation, and patterns of community or regional development or change.

25 (2) Study the conservation, adaptation, improvement, and restoration of land and related
26 resources affected by mining.

27 (3) Make recommendations concerning any aspect or aspects of law or practice and governmental
28 administration dealing with matters within the purview of this compact.

1 (4) Gather and disseminate information relating to any of the matters within the purview of this
2 compact.

3 (5) Cooperate with the federal government and any public or private entities having interests in any
4 subject coming within the purview of this compact.

5 (6) Consult, upon the request of a party state and within available resources, with the officials of
6 the state in respect to any problem within the purview of this compact.

7 (7) Study and make recommendations with respect to any practice, process, technique, or course
8 of action that may improve the efficiency of mining or the economic yield from mining operations.

9 (8) Study and make recommendations relating to the safeguarding of access to resources which
10 are or may become the subject of mining operations to the end that the needs of the economy for the products
11 of mining may not be adversely affected by unplanned or inappropriate use of land and other resources
12 containing minerals or otherwise connected with actual or potential mining sites.

13 Article V. The Commission

14 (1) There is an agency of the party states to be known as the "Interstate Mining Commission", or
15 "the Commission". The Commission is composed of one commissioner from each party state who is the
16 governor of that state. Pursuant to the laws of the party state, each governor shall have the assistance of an
17 advisory body (including membership from mining industries, conservation interests, and other public and
18 private interests as may be appropriate) in considering problems relating to mining and in discharging the
19 responsibilities as a Commissioner on the Commission. In any instance where a governor is unable to attend a
20 meeting of the commission or perform any other function in connection with the business of the commission,
21 the governor shall designate an alternate, from among the members of the advisory body required by this
22 paragraph, who shall represent the governor and act in the governor's place and stead. The designation of an
23 alternate shall be communicated by the governor to the commission as provided in its bylaws.

24 (2) The commissioner is entitled to one vote each on the commission. No action of the commission
25 making a recommendation pursuant to article IV-3, IV-7, and IV-8 or requesting, accepting, or disposing of
26 funds, services, or other property pursuant to this paragraph, article V (7), V (8), or VII shall be valid unless
27 taken at a meeting at which a majority of the total number of votes on the commission is cast in favor of the
28 action. All other action shall be by a majority of those present and voting: provided that action of the

1 commission is only at a meeting at which a majority of the commissioners, or their alternates, is present. The
2 commission may establish and maintain facilities as may be necessary for the transaction of its business. The
3 commission may acquire, hold, and convey real and personal property and any interest in that property.

4 (3) The commission shall have a seal.

5 (4) The commission shall elect annually, from among its members, a presiding officer, a vice-
6 presiding officer, and a treasurer. The commission shall appoint an executive director and fix the executive
7 director's duties and compensation. The executive director shall serve at the pleasure of the commission. The
8 executive director, the treasurer, and other personnel as the commission designates shall be bonded. The
9 amount or amounts of the bond or bonds is determined by the commission.

10 (5) Irrespective of the civil service, personnel, or other merit system laws of any of the party states,
11 the executive director, with the approval of the commission, shall appoint, remove, or discharge personnel as
12 may be necessary for the performance of the commission's functions, and shall fix the duties and compensation
13 of personnel.

14 (6) The commission may establish and maintain independently or in conjunction with a party state,
15 a suitable retirement system for its employees. Employees of the commission are eligible for social security
16 coverage in respect of old age and survivor's insurance provided that the commission takes steps necessary
17 pursuant to the laws of the United States to participate in a program of insurance as a governmental agency or
18 unit. The commission may establish and maintain or participate in additional programs of employee benefits as
19 it deems appropriate.

20 (7) The commission may borrow, accept, or contract for the services of personnel from any state,
21 the United States, or any other governmental agency, or from any person, firm, association, or corporation.

22 (8) The commission may accept for any of its purposes and functions under this compact any and
23 all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from
24 any state, the United States, or any other governmental agency, or from any person, firm, association, or
25 corporation, and may receive, utilize, and dispose of the same. Any donation or grant accepted by the
26 commission pursuant to this paragraph or services borrowed pursuant to paragraph (7) of the article shall be
27 reported in the annual report of the commission. The report shall include the nature, amount, and conditions, if
28 any, of the donation, grant, or services borrowed and the identity of the donor or lender.

1 of its obligations in whole or in part with funds available to it under article V(8) of this compact; provided that the
2 commission takes specific action setting aside the funds prior to incurring any obligation to be met in whole or in
3 part in such manner. Except where the commission makes use of funds available to it under article V(8), the
4 commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet
5 the same.

6 (4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts
7 and disbursements of the commission are subject to the audit and accounting procedures established under its
8 bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a
9 qualified public accountant and the report of the audit shall be included in and become part of the annual report
10 of the commission.

11 (5) The accounts of the commission shall be open at any reasonable time for inspection by duly
12 constituted officers of the party states and by any persons authorized by the commission.

13 (6) This compact may not be construed to prevent commission compliance with laws relating to
14 audit or inspection of accounts by or on behalf of any government contributing to the support of the
15 commission.

16 Article VIII. Entry Into Force and Withdrawal

17 (1) This compact shall enter into force when enacted into law by any four or more states. After that
18 enactment, this compact becomes effective as to any other state upon its enactment of the compact.

19 (2) Any party state may withdraw from this compact by enacting a statute repealing the compact,
20 but withdrawal does not take effect until one year after the governor of the withdrawing state has given notice in
21 writing of the withdrawal to the governors of all other party states. A withdrawal does not affect any liability
22 already incurred by or chargeable to a party state prior to the time of withdrawal.

23 Article IX. Effect On Other Laws

24 This compact does not limit, repeal, or supersede any other law of any party state.

25 Article X. Construction and Severability

26 This compact shall be liberally construed so as to effectuate the purposes of the compact. The
27 provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is
28 declared to be contrary to the constitution of any state or of the United States, or the applicability of the

1 compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of
2 this compact and the applicability of the compact to any government, agency, person, or circumstance is not
3 affected. If this compact is held contrary to the constitution of any state participating in the compact, the
4 compact remains in full force and effect as to the remaining party states and in full force and effect as to the
5 state affected as to all severable matters.

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7 **NEW SECTION. Section 3. Membership and applicability.** (1) The governor may appoint a
8 designee to serve as the governor's official representative to the compact and to perform all functions in
9 connection with the business of the compact.

10 (2) Provisions and policies of the Interstate Mining Compact may not be construed to limit, repeal,
11 or supersede any law of the state of Montana.

12 (3) (a) The governor and the legislature, or agents of either, may inspect the books and accounts
13 of the Interstate Mining Compact Commission at any reasonable time while the state is a member.

14 (b) A copy of the bylaws of the Interstate Mining Compact Commission must be placed on file with
15 the department of environmental quality and be available for inspection at any reasonable time by the
16 legislature or any interested citizen.

17 (4) The state of Montana is not liable for the obligations or solvency of:

18 (a) the retirement system described in article V(6) of the compact; or

19 (b) a program of employee benefits described in article V(6) of the compact.

20 (5) As used in article V(1) of the compact, "agency" does not mean an agency of the state of
21 Montana or any political subdivision of the state of Montana.

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23 **NEW SECTION. Section 4. Expenses.** The department of environmental quality may pay annually
24 out of funds collected from mining fees, abandoned mine land fees and funds, natural resource operations, or
25 from funds granted to the state by the federal office of surface mining reclamation and enforcement, the annual
26 membership dues payable to the Interstate Mining Compact commission for the membership of the state of
27 Montana in that organization.

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1 NEW SECTION. **Section 5. Codification instruction.** [Sections 1 through 4] are intended to be
2 codified as an integral part of Title 82, chapter 4, and the provisions of Title 82, chapter 4, apply to [sections 1
3 through 4].

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5 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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